

Public Service Commission

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December 11, 2000

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VIA OVERNIGHT MAIL

Ms. Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street, S.W., Suite TW-A325
Washington, D.C. 20554

Re: Petition of the West Virginia Public
Service Commission for additional
delegated authority to implement
number conservation measures.

Dear Ms. Salas:

*CC Docket Nos 99-200 and
96-98*

Enclosed is an original and seven copies of the Public Service Commission of West Virginia's petition for additional delegated authority to implement number conservation measures for the 304 area code. Please return a file-stamped copy in the enclosed, self-addressed and stamped envelope.

Very truly yours,

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chairman.gdr.12112000

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of:)
The West Virginia Public Service Commission)
Petition for Delegated Authority to)
Implement Number Conservation)

CC Docket Nos. 99-200
and 96-98

PETITION OF THE PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA FOR ADDITIONAL DELEGATED AUTHORITY
TO IMPLEMENT NUMBER CONSERVATION MEASURES

The Public Service Commission of West Virginia (WVPSC) submits to the Federal Communications Commission (FCC or Commission) this petition for delegated authority pertaining to number conservation measures. Pursuant to paragraphs 30 and 31 of the FCC's September 28, 1998, "Memorandum Opinion and Order on Reconsideration" in NSD File No. L-97-42, and Section 251(e)(1) of the Telecommunications Act of 1996, the FCC is empowered to delegate such authority to the states. The FCC has already granted such authority to several states.

The WVPSC requests authority to implement the following number conservation measures, as described herein, which would conserve numbering resources and thereby slow the pace of area code relief:

1. Institute thousands-block number pooling in conformity with the FCC's national framework;
2. Enforce current standards for number allocation, or set and enforce new standards;
3. Maintain rationing procedures for six months following area code relief;
4. Order the submission of utilization and forecast data from all carriers, including wireless providers, and audit such reporting;

5. Order carriers to return unused, reserved or under-utilized portions of NXX codes;
6. Require sequential number assignments;
7. Hear and address claims by individual carriers requesting numbering resources outside of rationing procedures.

BACKGROUND

West Virginia faces pressing problems as it seeks to utilize, conserve and distribute NXX codes in the 304 NPA. In May 2000, representatives of the North American Numbering Plan Administrator (NANPA), advised the WVPSC and others that the number of assignable central office codes (NXX codes) for the 304 area code, otherwise referred to as the 304 numbering plan area (NPA), was in danger of being exhausted by the first quarter of 2002 (1Q02).¹ Prior projections had indicated that the 304 NPA would not be exhausted until 3Q04, but an unexpected increase in demand for NXX codes accelerated the projected exhaust date.² On May 10, 2000, the NANPA declared the 304 NPA to be in jeopardy and invoked jeopardy procedures including limiting the assignment of NXX codes to six per month. These procedures extended the projected exhaust date for the 304 NPA to 3Q02. In order to address these problems, the WVPSC opened Case No. 00-0953-T-PC, to act upon the NANPA's petition for NPA relief.

Evidence presented during hearings in Case No. 00-0953-T-PC strongly suggests that

¹West Virginia has one NPA, 304, assigned for the entire state. The 304 NPA was assigned to West Virginia in 1947.

²In February 2000, one entity requested, and was assigned, 72 NXX codes – a total of approximately 720,000 access lines or nearly 10% of the total access lines in the 304 NPA.

NXX code depletion is not necessarily a consequence of over-utilization by subscribers, but rather is the result of inefficient use of NXX codes by various entities, evidenced by very low “fill rates” for NXX codes. There are approximately 850,000 access lines in use in West Virginia currently, accounting for just over 10% of all numbers available in West Virginia. Yet, 602 of the 800 NXX codes in the state have been assigned, thereby placing the 304 NPA in jeopardy. Data submitted to the WVPSC by code holders in response to the WVPSC’s November 21, 2000, order in Case No. 00-0953-T-PC supports the conclusion that low “fill rates” are pushing the 304 NPA toward early exhaust.. For example, one carrier, Gateway Telecom, LLC, d/b/a Stratus Wave, holds 48 NXX codes. With the exception of two NXX codes held by Gateway, no more than three numbers -- 0.03% of the available numbers in an NXX code -- have been assigned in each code.

By order entered in Case No. 00-0953-T-PC on November 21, 2000, the WVPSC directed certain numbering resource reclamation and conservation measures to be pursued. At a December 8, 2000, hearing in that proceeding, all parties who entered an appearance – including WVPSC Staff, the WVPSC’s Consumer Advocate Division, the NANPA and representatives of telecommunications carriers -- supported the WVPSC’s number conservation and reclamation efforts.

DISCUSSION

The Commission has adopted a number of measures to conserve, and more efficiently allocate, limited numbering resources around the country. See “Report and Order and

Further Notice of Proposed Rule Making,” In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-104 (March 31, 2000) (NRO Order).

Among other things, the Commission adopted a national framework for thousands-block number pooling and a rollout schedule for implementing pooling in the 100 largest Metropolitan Standard Areas (MSAs) once a national pooling administrator is selected. NRO Order, at ¶ 122.

1. Authority to institute thousands-block number pooling

Since the NRO Order deferred mandatory pooling until such time as a national pooling administrator is selected and a pooling schedule developed, national pooling may not begin until the second or third quarter of 2001. For states with NPAs outside the top 100 MSAs, the wait for national number pooling will be even longer.³ The WVPSC believes that number conservation efforts in West Virginia cannot wait that long.

Recognizing the need for some states to obtain the benefits of thousands-block number pooling as soon as feasible, the Commission determined it would continue to grant states’ requests for authority to implement number conservation measures, including thousand block number pooling. NRO Order, at ¶¶ 156 & 169. The FCC continues to permit states to implement individual pooling trials through individual requests for additional delegation of authority. Id. at ¶¶ 128 & 169. In order for a state to obtain interim

³According to U.S. Census Bureau data, no MSA in the 304 NPA is in the top 100 MSAs nationally.

pooling authority for an NPA outside of the top 100 MSAs, it must justify its request by demonstrating that: (1) the NPA is in jeopardy, (2) the NPA in question has a remaining life span of at least a year, and (3) either (a) the majority of wireline carriers in the NPA are local number portability (LNP) capable or (b) other special circumstances exist. Id. at ¶ 170. State commissions receiving pooling authority must conform to the FCC's national pooling framework. Id. at ¶ 169.

In accordance with paragraph 170 of the NRO Order, the WVPSC assures the Commission that: (1) the 304 NPA is in jeopardy;⁴ (2) the 304 NPA has a current life span of at least one year;⁵ and (3) the majority of wireline carriers in the 304 NPA are LNP-capable.⁶ NRO Order, at ¶ 170. Having met the Commission's criteria, the WVPSC seeks authority to implement nondiscriminatory, mandatory thousand block number pooling in accordance with the national framework established by the Commission in rules set forth in Appendix A to the NRO Order, codified at 47 C.F.R. § 52.20.

⁴The NANPA declared the 304 NPA to be in jeopardy on May 10, 2000.

⁵With rationing procedures in place, the NANPA projects the 304 NPA will be exhausted by 3Q02.

⁶To the best of the WVPSC's knowledge, Verizon West Virginia Inc. (Verizon-WV), the largest incumbent local exchange carrier (LEC) in the 304 NPA, as well as virtually all competitive LECs (nearly 100 certificated to date), are LNP-capable. According to the NANPA, Verizon-WV and these competitive LECs hold at least 300 NXX codes in the 304 NPA. The WVPSC understands that Citizens Telephone Company of the Mountain State and six independent, incumbent LECs are not LNP-capable. These LECs hold approximately 100 NXX codes, according to information provided to the WVPSC by the NANPA. These totals are for those carriers that provide wireline telecommunications services in the 304 NPA.

2. Authority to enforce current standards for number allocation, or set and enforce new standards

The WVPSC seeks authority to require that a carrier demonstrate it has, or will have within six months, the facilities necessary to serve a particular rate center before it is assigned an NXX code for use within that rate center. For those carriers already assigned one or more NXX codes, the WVPSC would require carriers to demonstrate that existing numbering inventory is inadequate before granting a request for another NXX code. WVPSC also seeks to establish fill rates that must be met, even if the area code is not in jeopardy, before a carrier may acquire a growth NXX code in a rate center where it already has a code.

The WVPSC proposes to implement such a provision by establishing a general fill rate and then permitting individual carriers to obtain a waiver of the standard based upon a showing of actual need. The WVPSC requests that the FCC grant it authority to request that the North American Numbering Plan Administrator (NANPA) notify the WVPSC of all code requests in the state.

3. Authority to maintain rationing procedures for six months following area code relief

The WVPSC seeks authority to order rationing as an area code nears jeopardy. The WVPSC would strive for consensus among the industry as to the rationing process but having this authority could allow for more rapid implementation of rationing than under current guidelines.

The WVPSC also seeks authority to order the continuation of a rationing plan for six

months following the implementation of area code relief so that a “run” on the existing area code could be prevented if an overlay is ordered as the method of area code relief.

4. Authority to order number utilization and forecast reporting, and to audit such reporting

The WVPSC seeks authority to order mandatory number utilization and forecast reporting by all carriers in order to monitor usage and enforce standards. Current industry numbering assignment guidelines do not require that carriers provide number utilization data with their applications for additional central office codes. Without this information, it is not possible to determine compliance with fill rates and thus ensure that numbering resources are being used efficiently.

Auditing of such reports is necessary to ensure compliance with number assignment and utilization requirements. The goal of the audits is to increase industry accountability and provide a credible information base for evaluating needs-based number assignment standards. The purpose of the audits would be to determine that only applicants with a bona fide need for additional numbering resources receive those resources and to ensure that previously assigned numbering resources are being used efficiently.

5. Authority to order carriers to return unused, reserved or under-utilized portions of NXX codes

Under current industry guidelines, central office codes are to be returned to the Code Administrator if the NXX code is no longer needed, or is not activated within six months of assignment. The guidelines also allow NXX codes to be reserved for up to 18 months,

with possible extensions of up to another six months. Allowing unused codes to remain unused for two years, while West Virginia residents and businesses are forced to undergo an area code change, is costly and unreasonable. Therefore, the WVPSC requests authority to investigate whether code holders have activated NXXs assigned to them within the time frames specified in the Central Office Code Assignment guidelines, and to direct the NANPA to reclaim NXXs that the WVPSC determines have not been activated in a timely and appropriate manner. The WVPSC further requests that the Commission extend the WVPSC's authority to include the reclamation of NXX codes where a carrier has not been certified as a facilities-based provider of local exchange service.

If the FCC grants the WVPSC's request to implement mandatory number pooling, the WVPSC would require the added authority to order carriers possessing unused, reserved or under-utilized blocks of numbers in NXX codes to return them to the Code Administrator, in accordance with applicable federal rules or industry guidelines.

6. Authority to require sequential number assignments

Code holders do not typically issue telephone numbers in any particular order. If this practice continues, future number pooling efforts will be hampered. The WVPSC requests that the FCC grant it authority to require carriers to assign numbers within an NXX or thousands-block sequentially.

7. Authority to hear and address claims by individual carriers requesting numbering resources outside of rationing procedures

The WVPSC may be confronted with requests from carriers for exemptions from the

rules governing the NXX code rationing process in the near future. In prior orders, the Commission has granted state commissions the authority to hear and address claims from carriers seeking NXX codes outside of the rationing process. See “Order,” In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, NSD File No. L-99-100, et al. (July 20, 2000) (7/20/00 NRO), at ¶ 53. The WVPSC requests the authority to hear and address claims of carriers, and to request information necessary to evaluate a carrier’s request, consistent with the authority granted to the Missouri, North Carolina and Virginia commissions. 7/20/00 NRO, at ¶ 54.

CONCLUSION

The speed with which numbers are being assigned, and the consequent number exhaust, seems to be accelerating. The primary cause of number exhaust is the inefficient manner in which NXX numbers are assigned. Number conservation measures, such as have been requested herein, are necessary to halt this growing problem. It is also widely recognized that the implementation of number conservation efforts such as thousands-block pooling have the potential for the greatest beneficial impact if implemented before an area code is in exhaust. If the WVPSC is granted the authority to implement number conservation methods, it will be positioned to help check the wasteful usage of a precious resource as well as save West Virginia citizens and telecommunications companies from the ordeal and expense of repeated area code relief measures.

Therefore, the WVPSC requests the FCC grant it authority to:

1. Institute thousands-block number pooling in conformity with the FCC's national pooling framework;
2. Enforce current standards for number allocation, or set and enforce new standards;
3. Maintain rationing procedures for six months following area code relief;
4. Order the submission of utilization and forecast data from all carriers, including wireless providers, and audit such reporting;
5. Order carriers to return unused, reserved or under-utilized portions of NXX codes;
6. Require sequential number assignments;
7. Hear and address claims by individual carriers requesting numbering resources outside of rationing procedures.

Respectfully submitted:

PUBLIC SERVICE COMMISSION OF
WEST VIRGINIA



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